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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,831

06/21/2006

Lene Moller

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6753

65989

7590

05/02/2011

KING & SPALDING

1185 AVENUE OF THE AMERICAS

NEW YORK, NY 10036-4003

EXAMINER

KIM, TAEYOON

ART UNIT

PAPER NUMBER

1651

NOTIFICATION DATE

DELIVERY MODE

05/02/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptomailnyc@kslaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,831	<b>Applicant(s)</b> MOLLER ET AL.	
	<b>Examiner</b> TAEYOON KIM	<b>Art Unit</b> 1651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2011.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) 23,24,27,29,30,36-39,41,111 and 113 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11,14,15,17,18,48,50-54,56-59,61,62,101-110 and 112 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/21/2010</u> .  | 6) <input type="checkbox"/> Other: _____                          |

Continuation of Disposition of Claims: Claims pending in the application are 11,14,15,17,18,23,24,27,29,30,36-39,41,48,50-54,56-59,61,62 and 101-113.

### **DETAILED ACTION**

Applicant's amendment and response filed on 2/22/2011 has been received and entered into the case.

Claims 1-10, 12, 13, 16, 19-22, 25, 26, 28, 31-35, 40, 42-47, 49, 55, 60, 63-100 are canceled, claims 23, 24, 27, 29, 30, 36-39, 41, 111 and 113 have been withdrawn from consideration as being drawn to non-elected subject matter, and claims 11, 14, 15, 17, 18, 48, 50-54, 56-59, 61, 62, 101-110 and 112 have been considered on the merits. All arguments have been fully considered.

The claim rejection under 35 U.S.C. §103 has been withdrawn due to the amendment.

It is noted that the applicant's argument is persuasive to overcome the claim rejection under 35 U.S.C. §103. However, it is noted that the instant invention appears to be critical in using particular temperature for thermal crosslinking, and thus, it is more appropriate to clearly define the temperature range (i.e. 110-200°C) of "thermally cross-linked" composition as disclosed in claims 101, 102 and 104.

### **Information Disclosure Statement**

The information disclosure statement filed 12/21/2010 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. In addition, the submitted document is named as "related case submission", which is not a proper submission of IDS. Applicant is advised to re-submit a proper form of IDS with a legible copy of each reference cited in the IDS.

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### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11, 14, 15, 17, 18, 48, 50-54, 56-59, 61, 62, 101-110 and 112 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The newly added limitation of “hyaluronate salt derivative thereof” in the instant claims does not clearly point out what subject matter the limitation intends to claim. It appears that applicant amended the term “derivative thereof” based on the Examiner's recommendation. However, the Examiner intended to have the term "derivative thereof" amended to "hyaluronate salt" or “salt thereof” since the derivative given in the specification is hyaluronan salts. Clarification is required.

The term “for delivery” in claim 112 renders the limitation of “an agent” indefinite. It is not clear whether the agent is for delivery of the composition (i.e. carrier or excipient) or the agent is the one being delivered by the composition. Clarification is required.

### **Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAEYOON KIM whose telephone number is (571)272-9041. The examiner can normally be reached on 8:00 am - 5:00 pm ET (Mon-Thu).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Taeyoon Kim/

Primary Examiner, Art Unit 1651